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By: **Delegates Conroy, Benson, Bohanan, Cole, Cane, DeCarlo, James,  
Kagan, K. Kelly, Malone, and Pitkin**

Introduced and read first time: February 26, 2001

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Fair Pricing for Prescription Drugs - Maximum Allowable Prices**

3 FOR the purpose of providing that, based on certain criteria, a manufacturer,  
4 wholesaler, or retailer may not charge a certain price for a prescription drug sold  
5 in Maryland; establishing certain maximum pricing criteria for a prescription  
6 drug sold in this State by a manufacturer; establishing certain maximum  
7 pricing criteria for a prescription drug sold in this State by a wholesaler;  
8 establishing certain maximum pricing criteria for a prescription drug sold in  
9 this State by a retailer; defining certain terms; and generally relating to the  
10 maximum price that can be charged for a prescription drug in this State.

11 BY adding to  
12 Article - Commercial Law  
13 Section 11-1501 through 11-1503, inclusive, to be under the new subtitle  
14 "Subtitle 15. Fair Pricing for Prescription Drugs"  
15 Annotated Code of Maryland  
16 (2000 Replacement Volume and 2000 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Commercial Law**

20 **SUBTITLE 15. FAIR PRICING FOR PRESCRIPTION DRUGS.**

21 11-1501.

22 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
23 INDICATED.

24 (B) "DRUG" MEANS ANY SUBSTANCE THAT IS SUBJECT TO THE PROVISIONS OF  
25 § 503(B)(1) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

1 (C) "MANUFACTURER" MEANS A PERSON, OTHER THAN A WHOLESALER, THAT  
2 SELLS DRUGS DIRECTLY TO PURCHASERS OR THROUGH A WHOLESALER FOR  
3 RESALE.

4 (D) (1) "PURCHASER" MEANS A PERSON DOING BUSINESS IN THE STATE  
5 WHO SELLS OR DISPENSES DRUGS DIRECTLY TO CONSUMERS IN THE STATE.

6 (2) "PURCHASER" DOES NOT INCLUDE:

7 (I) THE DEPARTMENT OF VETERANS' AFFAIRS, THE DEPARTMENT  
8 OF DEFENSE, COVERED ENTITIES UNDER § 340(B) OF THE PUBLIC HEALTH SERVICE  
9 ACT, OF ANY OTHER FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY THAT  
10 DIRECTLY PURCHASES DRUGS;

11 (II) A NURSING HOME OR OTHER LONG-TERM CARE FACILITY THAT  
12 MAKES PHARMACY SERVICES AVAILABLE FOR ITS RESIDENTS' OWN USE, BUT DOES  
13 NOT PROVIDE PRESCRIPTION DRUGS FOR RESALE OR OUTPATIENT USE;

14 (III) A HOSPITAL, INCLUDING ANY FACILITY OWNED BY A HOSPITAL,  
15 WHICH HAVE PHARMACY SERVICES AVAILABLE FOR ITS PATIENTS' OWN USE ON AN  
16 INPATIENT OR OUTPATIENT BASIS, IF:

17 1. THE SERVICES ARE TO BE ADMINISTERED AT THE  
18 HOSPITAL OR HOSPITAL FACILITY AND ARE NOT FOR RESALE;

19 2. NOT MORE THAN A 72-HOUR SUPPLY OF PRESCRIPTION  
20 DRUGS IS PROVIDED FOR THE PATIENT AT THE TIME OF DISCHARGE FOR A PATIENT'S  
21 OWN USE AND THE PRESCRIPTION DRUGS ARE NOT FOR RESALE; OR

22 3. AN EMPLOYEE OF THE HOSPITAL IS SUPPLIED PHARMACY  
23 SERVICES FOR THE EMPLOYEE'S OWN USE AND THE PRESCRIPTION DRUGS ARE NOT  
24 FOR RESALE;

25 (IV) A GROUP PURCHASING ENTITY OR SERVICE THAT PURCHASES  
26 DRUGS OR PHARMACY SERVICES ON BEHALF OF HOSPITALS, IF THE DRUGS OR  
27 PHARMACY SERVICES ARE TO BE ADMINISTERED AT THE HOSPITAL OR HOSPITAL  
28 FACILITY AND THE PRESCRIPTION DRUGS ARE NOT FOR RESALE; OR

29 (V) A CHARITABLE HEALTH CARE PROVIDER THAT DOES NOT  
30 ISSUE, OFFER, OR ADMINISTER A HEALTH INSURANCE POLICY OR AN EMPLOYEE  
31 BENEFIT PLAN FOR INDIVIDUALS OTHER THAN THE EMPLOYEES OF THE  
32 CHARITABLE HEALTH CARE PROVIDER.

33 (E) "WHOLESALER" MEANS A PERSON, OTHER THAN A MANUFACTURER, THAT  
34 SELLS DRUGS TO PURCHASERS FOR RESALE.

35 11-1502.

36 A MANUFACTURER, WHOLESALER, OR RETAILER OF PRESCRIPTION OR GENERIC  
37 DRUGS MAY NOT CHARGE A PRICE FOR A DRUG THAT IS GREATER THAN THE

1 MAXIMUM PRICE FOR PRESCRIPTION DRUGS ESTABLISHED UNDER THE PROVISIONS  
2 OF § 11-1503 OF THIS SUBTITLE.

3 11-1503.

4 (A) THE MAXIMUM PRICE FOR A PRESCRIPTION DRUG SOLD IN THE STATE BY  
5 A MANUFACTURER SHALL BE THE LOWER OF:

6 (1) THE PRICE LISTED IN THE FEDERAL SUPPLY SCHEDULE FOR  
7 PHARMACEUTICALS AND DRUGS MAINTAINED BY THE UNITED STATES DEPARTMENT  
8 OF VETERANS' AFFAIRS;

9 (2) THE PRICE LISTED IN THE DRUG FORMULARY MAINTAINED BY THE  
10 CANADIAN PROVINCE OF QUEBEC; OR

11 (3) THE PRICE CHARGED IN ANY OTHER STATE.

12 (B) THE MAXIMUM PRICE FOR A PRESCRIPTION SOLD IN THE STATE BY A  
13 WHOLESALER IS THE MAXIMUM MANUFACTURER PRICE ESTABLISHED UNDER  
14 SUBSECTION (A) OF THIS SECTION PLUS ANY USUAL AND CUSTOMARY WHOLESAL  
15 MARKUP.

16 (C) THE MAXIMUM PRICE FOR A PRESCRIPTION DRUG SOLD IN THIS STATE BY  
17 A RETAILER IS THE MAXIMUM WHOLESAL PRICE ESTABLISHED IN SUBSECTION (B)  
18 OF THIS SECTION PLUS:

19 (1) ANY USUAL AND CUSTOMARY RETAIL MARKUP; AND

20 (2) A DISPENSING FEE THAT DOES NOT EXCEED THE DISPENSING FEE  
21 FOR PRESCRIPTIONS DISPENSED FOR AN ENROLLEE UNDER THE MARYLAND  
22 MEDICAL ASSISTANCE PROGRAM.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2001.